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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/540,148	03/31/2000	Peter T Fry	80934F-P	1747

1333 7590 09/03/2004

PATENT LEGAL STAFF
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER, NY 14650-2201

EXAMINER

AKERS, GEOFFREY R

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 09/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/540,148

Applicant(s)

FRY ET AL.

Examiner

Geoffrey Akers

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 10-17, 20-27, 30 and 40-76 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-17, 20-27, 30, 40-76 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This action is issued in reply to applicant's amendment filed 5/30/04.
2. Claims 1,11,21,40,50 were further amended. No claims were added. No others were deleted.
3. Claims 1-7,10-17,20-27,30,40-76 are pending.

Claim Rejections - 35 USC § 103

4. Claims 1-7, 11-17,21-27,40-76 are rejected under 35 USC 103(a) as being unpatentable over Hoekstra(US Pat. No: 6,304,277). The rejections as cited in the Non Final Office Action(Paper #14) are maintained.
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5. Claims 10,20,30 are rejected under 35 USC 103(a) as unpatentable over Hoekstra in view of Hopkins(US Pat. No: 6,282,462). The rejections as cited in the Non-Final Office Action(Paper #14) are also maintained.
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Claim Rejections - 35 USC § 112

6. Claims 1,11,40 are also rejected under 35 USC 112(2nd) as being indefinite for failing to point out and distinctly claim the subject matter that applicant regards as the invention. It is unclear how the software function and how it is used. No explanations have been provided of how the software specifically relates to the manipulation of each image or what such manipulation comprises. It is also unclear how and where the high-resolution digital image files are transmitted to after using the software.

Claims 21 and 50 recite the limitation "said software". There is insufficient antecedent basis for this limitation in the claim.

Response to Arguments

7. Applicant's arguments are not persuasive. The software is not adequately defined in terms of its function or manipulations for the reasons stated in the rejection prior. The transmission of information relating to the image inherently comprises information regarding the original high resolution image. Hoekstra teaches the modification of images for commercial and public use and consumption which may include purchase(col 1 line 30).Hoekstra definitely includes a commercial element that being the relationship between the image creator and the photo service provider(col 2 line 17).Hoekstra and the applicant's invention both address image processing and solve similar issues of eliminating the inefficiencies involved in transmitting high resolution data(col 5 line 3).Hopkins, moreover teaches a method for consistent transmission of image data preventing data loss(col 3 line 61). It would have been obvious to modify the system of Hoekstra to provide consistent transmission of image data as taught by Hopkins to maintain quality.

Conclusion

8. **THIS ACTION IS MADE FINAL.**

9. Questions concerning this communication should be addressed to the primary examiner of record, Dr. Geoffrey Akers, P.E., who can be reached between 6:30 AM

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and 5:00 PM Monday through Friday at 703-306-5844. If attempts to contact the primary examiner are unsuccessful, the primary examiner's superior, Mr. Vincent Millin, SPE, may be telephoned at (703)-308-1065.

The fax number for Formal or Official faxes and Draft or Informal faxes to Technology Center 3600 or this Art Unit is (703)-308-3687.

August 31, 2004

A handwritten signature in black ink, consisting of a stylized 'G' followed by a long horizontal stroke.

DR. GEOFFREY R. AKERS, P.E.
PRIMARY EXAMINER